

CCRB INVESTIGATIVE RECOMMENDATION

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|---|--|---------------------------|--|------------------------------------|---------------------------------|
| Investigator: Miriam Lynch | Team: Squad #9 | CCRB Case #: 201603055 | <input checked="" type="checkbox"/> Force | <input type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input type="checkbox"/> Injury |
| Incident Date(s) Friday, 04/08/2016 8:00 PM | Location of Incident: White Plains Road and Britton Street and the 49th Precinct Stationhouse | Precinct: 49 | 18 Mo. SOL 10/8/2017 | EO SOL 10/8/2017 | |
| Date/Time CV Reported Mon, 04/11/2016 12:07 PM | CV Reported At: CCRB | How CV Reported: Phone | Date/Time Received at CCRB Mon, 04/11/2016 12:07 PM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------|--------------|
| | | |

| Subject Officer(s) | Shield | TaxID | Command |
|-------------------------|--------|--------|---------|
| 1. POM Angel Cruz | 29534 | 938294 | 049 PCT |
| 2. POM Eric Ramos | 24101 | 953296 | 049 PCT |
| 3. SGT Roberto Bermudez | 4999 | 938060 | 049 PCT |
| 4. POM Jonathan Rivera | 06577 | 949550 | 049 PCT |

| Witness Officer(s) | Shield No | Tax No | Cmd Name |
|----------------------|-----------|--------|----------|
| 1. LT Kishon Hickman | 00000 | 930352 | 049 PCT |
| 2. POM James Rivera | 19017 | 948452 | 049 PCT |

| Officer(s) | Allegation | Investigator Recommendation |
|------------------------|---|-----------------------------|
| A.SGT Roberto Bermudez | Force: Sergeant Roberto Bermudez used physical force against § 87(2)(b) at White Plains Road and Britton Street in the Bronx. | |
| B.POM Jonathan Rivera | Force: Police Officer Jonathan Rivera used physical force against § 87(2)(b) at White Plains Road and Britton Street in the Bronx. | |
| C.POM Eric Ramos | Abuse: Police Officer Eric Ramos refused to provide his shield number to § 87(2)(b) at the 49th Precinct stationhouse in the Bronx. | |
| D.POM Angel Cruz | Abuse: Police Officer Angel Cruz refused to provide his shield number to § 87(2)(b) at the 49th Precinct stationhouse in the Bronx. | |

Case Summary

On April 8, 2016, at approximately 8:00 p.m. § 87(2)(b) was visiting a salon that he frequents, Genesis Salon, located near the intersection of White Plains Road and Britton Street in the Bronx. He spoke with his friend, “§ 87(2)(b)” outside of the salon for approximately 20 minutes, before he was approached by two undercover officers posing as prostitutes. They asked him if he wanted to pay for sexual services. § 87(2)(b) allegedly stated that he did not want to purchase sexual services. He briefly finished his conversation with “§ 87(2)(b)” and walked away from the salon. He was then approached by Sgt. Roberto Bermudez and PO Angel Cruz, both of the 49th Precinct, and Sgt. Bermudez allegedly pushed him face-first against a vehicle in order to handcuff him (**Allegation A**). PO James Rivera and PO Jonathan Rivera, also of the 49th Precinct, arrived in a prisoner van shortly after § 87(2)(b) was handcuffed. Also present were Lt. Kishon Hickman and PO Eric Ramos, also of the 49th Precinct. PO Jonathan Rivera then allegedly pushed § 87(2)(b) into the prisoner van (**Allegation B**). All of these officers were part of an operation called “Losing Proposition,” which was designed to arrest men willing to patronize prostitutes. Lt. Hickman and PO Ramos were present as an observation team for the operation.

At approximately 11:35 p.m. § 87(2)(b) was transported to the 49th Precinct stationhouse. While in the stationhouse, he allegedly asked for PO Ramos’ and PO Cruz’s shield numbers, which they allegedly refused to provide (**Allegations C and D**).

Video from a Key Foods supermarket on White Plains Road was obtained. It shows an unmarked vehicle turning on its safety lights, and driving north on White Plains Road, but police officers and civilians cannot be seen in this video footage. The video appears in its entirety in IA #24 (Board Review 2), and the transcription of the segment of footage that captured the incident can be found in IA #26 (Board Review 3).



§ 87(2)(b)

As a result of this incident, § 87(2)(b) was arrested and charged with § 87(2)(b) (Board Review 1).

Mediation, Civil and Criminal Histories

- This case was unsuitable for mediation due to § 87(2)(b)’s arrest (Board Review 1).
- On June 28, 2016, a FOIL request for a notice of claim was requested from the comptroller’s office. The results will be added to the case file upon receipt (Board Review 4).

- § 87(2)(b)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(b)

- § 87(2)(b)

Civilian and Officer CCRB Histories

- § 87(2)(b) filed one previous CCRB complaint § 87(2)(b)
- PO Cruz has been a member of service for ten years. Three prior CCRB complaints have been filed against him. None of the allegations has been substantiated, § 87(2)(g) (Board Review 7).
- Sgt. Bermudez has been a member of service for ten years. This is the first complaint filed against him (Board Review 7).
- PO Jonathan Rivera has been a member of service for five years. Three prior CCRB complaints have been filed against him. None of the allegations has been substantiated, § 87(2)(g) (Board Review 7).
- PO Ramos has been a member of service for three years. This is the first CCRB complaint filed against him (Board Review 7).

Findings and Recommendations

Allegations not pleaded

- **Abuse** — § 87(2)(b) initially made a guns pointed allegation over the phone during his intake call. When questioned about this allegation during his in-person interview, he conceded that he did not remember whether any officer pointed a gun at him (Board Review 8).

Allegation A –Force: Sergeant Roberto Bermudez used physical force against § 87(2)(b) at White Plains Road and Britton Street in the Bronx.

Allegation B –Force: Police Officer Jonathan Rivera used physical force against § 87(2)(b) at White Plains Road and Britton Street in the Bronx.

It is undisputed that Sgt. Bermudez and PO Cruz approached § 87(2)(b) at the intersection of White Plains Road and Britton Street in the Bronx, and that Sgt. Bermudez handcuffed him. It is also undisputed that § 87(2)(b) was, shortly thereafter, placed in a marked prisoner van. The manner in which this arrest was conducted, however, is in dispute.

§ 87(2)(b) stated that he was talking with his friend, “§ 87(2)(b) a friend of his who worked at a nearby salon, for approximately twenty minutes. He was discussing hair-tinting and manicure prices for himself and his wife. During this conversation, two female individuals, whom he perceived to be prostitutes, approached him, and offered him their services, which he stated that he declined. He briefly continued talking with “§ 87(2)(b) and then walked away, across White Plains Road. Suddenly, he was stopped by Sgt. Bermudez and PO Cruz, and immediately placed under arrest. When Sgt. Bermudez handcuffed him, he pushed him face-first into a car to do so. § 87(2)(b)

§ 87(2)(b) then stated that PO Jonathan Rivera grabbed him by his back and his wrist, and shoved him into the back of the marked prisoner van (Board Review 8).

Sgt. Bermudez stated that his role in the operation on this date was apprehending individuals who Lt. Hickman identified as having attempted to solicit prostitutes. He received a transmission from Lt. Hickman and PO Ramos that they had received a signal from an undercover officer that a slim, Hispanic male of advanced age tried to purchase sexual services near White Plains Road. He saw § 87(2)(b) who matched the description, crossing White Plains Road near Britton Street. He stated that he approached § 87(2)(b) and told him to put his arms behind his back, which § 87(2)(b) did. He denied pushing § 87(2)(b) against the side of a vehicle, and did not remember whether § 87(2)(b) needed to be placed against any object in order to be handcuffed (Board Review 9).

PO Ramos, who was inside of the vehicle with Lt. Hickman at the time of the incident, confirmed that he was given both a verbal and visual signal from one of the undercover officers posing as a sex worker that indicated that § 87(2)(b) was identified as an individual who attempted to purchase sexual services (Board Review 11).

No officer interviewed witnessed § 87(2)(b) being pushed against the side of a vehicle during his arrest (Board Review 11-14).

Additionally, PO Jonathan Rivera denied pushing § 87(2)(b) into the prisoner van (Board Review 10). He stated that he may have assisted him into the van, because there is a step up into the van. No other officer could remember whether § 87(2)(b) was pushed into the prisoner van (Board Review 11-14).

The video footage obtained captured only one of the vehicles pulling up to the arrest location, and did not record any of the particulars of § 87(2)(b)'s arrest (Board Review 2).

§ 87(2)(g)

Allegation C –Abuse of Authority: Police Officer Eric Ramos refused to provide his shield number to § 87(2)(b) in the 49th Precinct Stationhouse in the Bronx.

Allegation D –Abuse of Authority: Police Officer Angel Cruz refused to provide his shield number to § 87(2)(b) in the 49th Precinct Stationhouse in the Bronx.

It is undisputed that PO Ramos and PO Cruz interacted with § 87(2)(b) while they were processing his arrest at the 49th Precinct stationhouse. Parts of this conversation, however, are in dispute.

§ 87(2)(b) stated that he asked PO Ramos and PO Cruz for their shield numbers twice, after reading their names from their nameplates. He alleged that PO Ramos stated that he did not know if he were allowed to provide § 87(2)(b) with his shield number verbally, and that PO Cruz did not respond at all (Board Review 8).

PO Ramos and PO Cruz both stated that they did not remember § 87(2)(b) asking for their shield numbers (Board Review 11 and 12). They both denied refusing to provide § 87(2)(b) with their shield numbers. No other officer remembered hearing § 87(2)(b) requesting either officer's shield number, or learning that PO Ramos and PO Cruz refused to provide their shield numbers to § 87(2)(b) (Board Review 8, 9, 13, and 14).

§ 87(2)(g) [Redacted]
[Redacted]
[Redacted]
[Redacted]

Squad #9

| | | | |
|---------------|-----------------|-------|-------|
| Investigator: | _____ | _____ | _____ |
| | Signature | Print | Date |
| Squad Leader: | _____ | _____ | _____ |
| | Title/Signature | Print | Date |
| Reviewer: | _____ | _____ | _____ |
| | Title/Signature | Print | Date |